

APPEAL NO. 010600

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 14, 2001. With respect to the issues before him the hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to his left knee. The claimant appeals, claiming that the hearing officer's decision is against the great weight and preponderance of the evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant testified that on _____, as he was kneeling down finishing cement, a piece of plywood fell and hit the back of his left calf; that he was not knocked down and did not slip or twist his knee during the incident; that a one-inch cut to his leg was cleaned at the first aide station and at the emergency room; and that he was admitted to the hospital for left leg swelling within a week. The claimant was first diagnosed with a possible meniscus injury to the left knee around December 21, 1999, over eight months after the original injury. The hearing officer found that there was no medical assessment of damage to the physical structure of the left knee and no treatment to the left knee. The hearing officer determined that the claimant's left knee problems are not results naturally flowing from the left calf injury which occurred on _____.

The claimant contends that he injured his "entire leg" and that although he went back to work, his knee continued to bother him. There were no documented complaints of pain specifically to the knee until several months after the injury of _____.

The hearing officer was the sole judge of the weight and credibility of the evidence presented. Section 410.165(a). It was his responsibility to resolve conflicts and contradictions in the evidence, including the medical evidence, and determine what facts have been established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer, as fact finder, may believe all, part, or none of the testimony of any witness. Burelsmith v. Liberty Mutual Insurance Company, 568 S.W.2d 695 (Tex. Civ. App.-Amarillo 1978, no writ). The Appeals Panel, not being fact finders, do not normally pass upon the credibility of witnesses or substitute our judgment for that of the trier of fact. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629 (Tex. 1986). We do not find the hearing officer's

determinations to be against the great weight of the evidence. Accordingly, the decision and order are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge